Supreme Court, U.S.
FILED

No. (2)

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OFFICE OF THE CLERK

In The Supreme Court of the United States

October Term 1998

STEPHEN A. ARMSTRONG,
Petitioner,

v.

WILLIAM G. BILLINGHAM; JOHN F. DAVIS; LOIS AMES; BARBARA REVES; MARY A. LARKIN; ANTONIA L. PETTIT,
Respondents.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

Appendix to Petition for Writ of Certiorari

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UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 98-1709

STEPHEN A. ARMSTRONG,

Party in Interest - Appellant,

and

INTER-WORLD DEVELOPMENT CORPORATION; INTERNATIONAL INVESTIGATIONS, INCORPORATED; RICHARD L. BAST,

Plaintiffs,

versus

ANTONIA LEIGH PETTIT; BARBARA OZELLA REVES; WILLIAM G. BILLINGHAM; JOHN F. DAVIS; MARY AUDREY LARKIN; LOIS AMES; ANTHONY JOSEPH PETTIT,

Defendants - Appellees,

and

VICTOR MICHAEL GLASBERG; JEANNE GOLDBERG; COHEN, DUNN & SINCLAIR, PC; J. FREDERICK SINCLAIR; THOMAS J. CURCIO; CARTER & KRAMER, PC; CHARLES WARREN KRAMER; JACOBOVITZ, ENGLISH & SMITH, PC; DAVID BENJAMIN SMITH; CLAUDE DAVID CONVISSER; NANCY GERTNER; PATRICIA GRIEST; JODY L. NEWMAN; DELMAR D. HARTLEY; MADDONA LEA SCHAMP PETTIT; ANNE CONNELL; WILLIAM C. HILLMAN; ROGER A. COX,

Defendants.

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. Albert V. Bryan, Jr., Senior District Judge. (CA-95-531-A)

Submitted: October 27, 1998
Entered: November 23, 1998

Before WIDENER and LUTTIG, Circuit Judges, and BUTZNER, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Gottlieb James Frick, II, Alexandria, Virginia, for Appellant. Frank Willard Dunham, Jr., COHEN, GETTINGS & DUNHAM, P.C., Arlington, Virginia; Barbara Ozella Reves, Alexandria, Virginia; John Otto Easton, JORDAN, COYNE & SAVITS, Fairfax, Virginia; Pamela Anne Bresnahan, Steven Robert Becker, VORYS, SATER, SEYMOUR & PEASE, Washington, D.C., for Appellees.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Stephen Andrew Armstrong appeals the district court's decisions imposing Fed. R. Civ. P. 11 sanctions and denying his Fed. R. Civ. P. 59(e) motion for reconsideration.*

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* Armstrong's notice of appeal and informal brief state that he is taking appeal from the district court's orders of August 4, October 6, October 10, October 25, November 17, December 5, 20, 1995, January 19, 1996, and March 24, 1998. This court has already determined that Armstrong's prior appeal from the district court's orders of August 4, October 10, October 11 (dated October 6), October 25, and November 20 (dated November 17), was untimely, and that his prior appeal from the district court's orders of December 20, 1995, and January 19, 1996, was without merit. See Armstrong v. Goldberg, No. 96-1223 (4th Cir. Nov. 18, 1997) (unpublished) and this court's order entered February 20,

We have reviewed the record, the district court's opinions, and Armstrong's claims on appeal, and find no reversible error. Accordingly, we affirm the orders on the reasoning of the district court. Armstrong v. Pettit, No. CA-95-531-A (E.D. Va. Dec. 6, 1995; Mar. 24, 1998). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the Court and argument would not aid the decisional process.

AFFIRMED

1998. We decline to reconsider our prior holdings relative to these orders.

IN THE UNITED STATES DISTRICT COURT
FOR THE
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

INTER-WORLD DEVELOPMENT CORPORATION, et al.,	)
Plaintiffs,	)
v.	)
VICTOR M. GLASBERG, et al.,	)
Defendants.	)

Civil Action No. 95-531-A
Entered: August 4, 1995

ORDER

In this, the latest of at least nine lawsuits filed by or at the behest of Richard L. Bast, the "vendetta" mentioned by the United States Court of Appeals in Bast v. Cohen, Dunn & Sinclair, P.C., et al., No. 94-2525 (4th Cir. July 14, 1995), continues. It is before the court on motions by various defendants to dismiss the amended complaint.

The action deserves a mercy killing. The amended complaint consists of 165 pages containing various claims of violations of RICO, wiretapping statutes, conspiracy statutes, constitutional rights, and pendent state laws. All of the claims arise, as described by the Court of Appeals, from the "dissolution of an extramarital affair and business relationship between Mr. Bast and Ms. Madonna Pettit."

While the name of the plaintiff has been altered, the characteristics of some of the causes of action have changed,

and additional defendants have been named, the amended complaint still is lacking in the factual allegations necessary to withstand a Fed. R. Civ. P. 12(b)(6) challenge. Without undertaking to examine, point by point, the allegations of the amended complaint and the deficiencies therein raised by the defendants, suffice it to say that the filing of the complaint, in light of the past history of this dispute, is on its face an abuse of the court process.

Specifically, the motions filed are by Barbara Ozella Reves, William G. Billingham, and certain non-governmental attorney and judicial defendants Carter & Kramer, P.C., Cohen, Dunn & Sinclair, P.C., Claude D. Convisser, Roger A. Cox, Thomas J. Curcio, English & Smith, Hon. Nancy Gertner, Jeanne Goldberg, Charles W. Kramer, Jody L. Newman, J. Frederick Sinclair, David B. Smith, and Victor M. Glasberg.

As noted, the amended complaint fails to state a claim upon which relief may be granted as to all moving parties. Further, the claims by plaintiff Bast against movants Cohen, Dunn Sinclair, P.C., J. Frederick Sinclair, Thomas J. Curcio, and Barbara Ozella Reves are obviously barred by res judicata. The addition of plaintiff's corporations ought not allow him to void this consequence, because the underlying allegations are the same. Also, William G. Billingham does not render himself amenable to the jurisdiction of this court by accepting service.

There are motions for sanctions pending, but they have not been noticed for hearing, and the court concludes that all motions for sanctions should be heard at the same time.

Accordingly, it is hereby

ORDERED that the motions of the moving defendants are granted, and this action is dismissed as to them. [1]

/S/ Albert V. Bryan
United States District Judge

Alexandria, Virginia
August 4, 1995

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[1] The court recognizes that this treatment of the action is cryptic. In the court's view, it deserves no more. Enough paper and effort has been expended already.

EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

INTER-WORLD DEVELOPMENT CORPORATION, et al.,	)
Plaintiffs,	)
v.	)
VICTOR M. GLASBERG, et al.,	)
Defendants.	)

Civil Action No. 95-531-A
Entered: October 6, 1995

ORDER

For the reasons stated from the bench, it is hereby ORDERED that:

1. The motion of the defendants, Lois Ames, Mary Audrey Larkin, and Antonia Leigh Pettit, to dismiss the corporate claims is granted.

2. The motions of the defendants, Anthony Joseph Pettit and John F. Davis, to dismiss for the same reasons as set forth in the court's August,4, 1995, order, is granted.

3. The motion of Barbara Reves to strike supplemental memorandum to plaintiff's opposition to Billingham's motion to dismiss is granted, and Exhibit A to this opposition is sealed.

4. The motion of Barbara Reves to dismiss the cross motion for sanctions of the plaintiff, Richard L. Bast, is granted.

5. This action is dismissed as to all defendants except Madonna Lea Schamp Pettit; the court reserving jurisdiction, however, to rule on the order fixing the amount of the sanctions imposed and to enforce those sanctions.

/S/ Albert V. Bryan
United States District Judge

Alexandria, Virginia
October 6th, 1995

EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

INTER-WORLD DEVELOPMENT CORPORATION, et al.,	)
Plaintiffs,	)
v.	)
VICTOR M. GLASBERG, et al.,	)
Defendants.	)

Civil Action No. 95-531-A
Entered: October 10, 1995

O R D E R IMPOSING SANCTIONS

This matter comes before the court on motions for sanctions under Fed.R.Civ.P. 11 filed by numerous defendants against the plaintiffs and their counsel of record in this lawsuit.

On consideration of the written submissions in support of the motions for sanctions against the plaintiffs, and of the written responses thereto filed on behalf of the plaintiffs, and

The court finding that plaintiffs' claims and filings herein have not been presented for a proper purpose but rather to harass defendants and cause them needless expense, and that the factual allegations in the complaint, amended complaint, and other filings of the plaintiffs lack evidentiary support, as set forth at length by the court at the proceedings on these motions held on October 6, 1995, the transcript of which is incorporated herein by reference, it is hereby

ORDERED that sanctions be, and they hereby are, imposed jointly and severally upon plaintiffs Richard Bast, Interworld Development Corporation and International Investigations, Inc., as follows:

1) Said plaintiffs shall forthwith pay the reasonable legal fees and costs incurred by the moving parties in connection with this litigation. The amount of such payment is to be determined as follows: If they have not already done so, within ten days defendants shall file petitions for their fees and costs and serve same upon counsel for plaintiffs, with a copy being mailed directly to plaintiff Richard Bast at his home address of record. Plaintiffs shall have ten days to file and serve a memorandum contesting the itemizations, as they may see fit to do. Responses to such objections will be filed and served within 10 days thereafter, following which the court will dispose of the matter on the papers, without further hearing. Payment'shall be remitted within thirty days of the court's order awarding fees and costs.

2) Said plaintiffs shall forthwith remit $100,000 in additional sanctions, payable to "Victor M. Glasberg, Escrow Agent," for disbursement among the defendants as defendants may agree.

3) Richard L. Bast, Interworld Development corporation and International Investigations Inc., and their respective agents, heirs, representatives, privies, successors, and any other persons or entities acting for them, in concert with them, or on their behalf, are each hereby permanently enjoined from filing any claim, including but not limited to any lawsuit, in any forum, against any of the defendants named in this suit, i.e.: Victor M. Glasberg, Jeanne Goldberg, Cohen Dunn & Curcio, P.C. (formerly Cohen Dunn & Sinclair, P.C.), J. Frederick Sinclair, Thomas J. Curcio, Antonia,.L. Pettit, Carter & Kramer, P.C., Charles W. Kramer, English & Smith (formerly Jacobovitz, English & Smith), David B. Smith, Barbara 0. Reves, Claude D. Convisser, William G. Billingham, Nancy Gertner, Patricia

Griest, Jody L. Newman, John F. Davis, Mary A. Larkin, Lois Ames, Delmar D. Hartley, Anthony J. Pettit, Madonna L. S. Pettit, Anne Connell, William Hillman, Roger Cox, their counsel, and their counsel's law firms, based on any transaction or occurrence taking place prior to the date of this order.

On consideration of the motions for sanctions against Stephen A. Armstrong, plaintiffs' counsel, and of the responses thereto filed on behalf of Mr. Armstrong, and following oral argument on behalf of the moving defendants and by counsel for Mr. Armstrong, and

The court finding, in addition to the above, that plaintiffs' claims against the defendants herein are not warranted by existing law or by a nonfrivolous argument for the extension, modification or reversal of existing law or the establishment of new law, as set forth at length by the court at the proceedings on these motions held on October 6, 1995, the transcript of which is incorporated herein by reference, it is hereby

ORDERED that sanctions be, and they hereby are, imposed upon Stephen A. Armstrong as follows: Mr. Armstrong is hereby adjudged to be jointly and severally liable together with his clients, the plaintiffs herein, to pay the reasonable legal fees and costs incurred by the moving parties in connection with this litigation. The method of determining and paying the fees and costs at issue shall be the same for Mr. Armstrong as set forth above for plaintiffs, provided that a copy of each itemization of fees and costs sought to be recovered, from Mr. Armstrong will also be served upon his counsel of record herein.

/S/ Albert V. Bryan
United States District Judge

Alexandria, Virginia
October 10, 1995

EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

INTER-WORLD DEVELOPMENT CORPORATION, et al.,	)
Plaintiffs,	)
v.	)
VICTOR M. GLASBERG, et al.,	)
Defendants.	)

Civil Action No. 95-531-A
Entered: October 25, 1995

ORDER

Upon consideration of the plaintiffs' Motion for a New Trial and Motion for Relief from Orders, it is hereby

ORDERED that the motions are set for hearing at 10:00 a.m., on November 17, 1995, at which time the plaintiffs may present their opposition to the motions for sanctions which resulted in the hearing of October 6, 1995, and orders of October 6 and October 10, 1995.

/S/ Albert V. Bryan
United States District Judge

Alexandria, Virginia
October 25th, 1995

EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

INTER-WORLD DEVELOPMENT CORPORATION, et al.,	)
Plaintiffs,	)
v.	)
VICTOR M. GLASBERG, et al.,	)
Defendants.	)

Civil Action No. 95-531-A
Entered: November 17, 1995

ORDER

For the reasons stated from the bench, it is hereby ORDERED that:

1. The Plaintiffs' Motion for a New Trial is denied.

2. The Plaintiffs' Motion for Relief from order is denied.

3. The plaintiff corporation's Motion to Substitute Counsel is granted.

4. The Plaintiffs' Motion to Continue the Hearing is denied.

5. The Plaintiffs' Motion to Amend the Order and for relief from that order is denied.

6. The Motion to Dismiss filed by Madonna Pettit is granted and sanctions are awarded in her favor in the amount of costs and attorney fees incurred in this action.

7. The motion of Stephen A. Armstrong to withdraw as counsel is granted nunc pro tunc on October 6, 1995, the court noting that all pleadings which have

heretofore been served on Armstrong have by him been forwarded to Bast. All pleadings required to be served on Bast shall be served or mailed to him personally.

8. This action is dismissed subject only to the court's ruling on the amount of the sanctions.

/S/ Albert V. Bryan
United States District Judge

Alexandria, Virginia
November 17th, 1995

EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

INTER-WORLD DEVELOPMENT CORPORATION, et al.,	)
Plaintiffs,	)
v.	)
VICTOR M. GLASBERG, et al.,	)
Defendants.	)

Civil Action No. 95-531-A
Entered: December 5, 1995

ORDER

For the reasons set forth in the Memorandum Opinion this day filed, it is ORDERED that:

1. Sanctions are awarded, and judgment is awarded, against Stephen A. Armstrong, Richard L. Bast, Inter-World Development Corporation, and International Investigations, Inc., jointly and severally, in favor of the following in the following amounts:

Victor M. Glasberg & Associates	$23,187.30
Cohen, Dunn & Curcio, P.C.	5,463.98
Claude Convisser	6,129.00
Roger Cox	7,040.00
Jody Newman	12,811.20
David Smith	5,750.00
Charles Kramer	2,325.00

Vorys, Sater, Seymour and Pease, Counsel for Davis	19,126.75
Jordan, Coyne & Savits, Counsel for Billingham.	8,458.16
Barbara A. Reves	614.39
Cohen, Gettings & Dunham, Counsel for Ames, Larkin, Antonio Pettit and Anthony Pettit	14,428.49

2. The Motion of Stephen A. Armstrong for Separate order Regarding Rule 11 Sanctions is denied.

3. The motion of Richard L. Bast for reconsideration is denied.

/S/ Albert V. Bryan
United States District Judge

Alexandria, Virginia
December 5, 1995

EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

INTER-WORLD DEVELOPMENT CORPORATION, et al.,	)
Plaintiffs,	)
v.	)
VICTOR M. GLASBERG, et al.,	)
Defendants.	)

Civil Action No. 95-531-A
Entered: December 5, 1995

MEMORANDUM OPINION

This action is before the court to fix the amount of attorneys' fees and costs to be awarded as sanctions against the plaintiffs and their former attorney. The sanctions were imposed as a result of the hearings and rulings of the court on October 6, 1995, and November 17, 1995. The amount of the attorneys' fees and costs were to be and have been the subject of submissions off the defendants and their counsel following the October 6, 1995, hearing. Plaintiffs' former attorney, Stephen A. Armstrong, has responded to the submissions as have the corporate plaintiffs.

The plaintiff, Richard L. Bast, has responded to the rulings of October 6, 1995, by requesting a further continuance because his medical condition was such that he could not attend and by complaining that he had no notice of the October 6, 1995, hearing. Skeptical of this latter assertion, but concerned by it, the court, as a matter of caution, rescheduled the matters heard on October 6, 1995, for November 17, 1995, advising the plaintiffs that they

could appear then and present any arguments in opposition to the requests for sanctions. The corporate plaintiffs appeared through counsel.[1] Bast again did not appear, submitting statements of doctors who said he could not. Because there was no indication from these submissions when, if ever, Bast would be able to appear, the court determined to proceed. This determination was confirmed during the hearing on November 17, 1995, when it was revealed that, far from being physically and mentally unable to attend and participate in a hearing conducted in this court, less than an hour's distance from Bast's home, he had, on or about October 23, 1995, flown to Zurich, Switzerland, to attempt to resolve other business and legal matters.[2] Bast has filled a motion for reconsideration undertaking to explain the circumstances of his trip to Zurich.

It, like Bast's other submissions, is articulate, belying his claim of disability. But it is unpersuasive.

Also heard on November 17, 1995, were motions of Armstrong and the corporate plaintiffs, objecting to the attorneys' fees and costs claimed.

The amounts originally claimed as costs and attorneys' fees are as follows, as supplemented:

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[1] Since the November 17, 1995 hearing, the court has received and considered the opposition and objections of the corporate plaintiffs to the motions for sanctions and attorneys' fees and costs.

[2] The court recognizes the potential issue of contempt for what appears on its face a blatant misrepresentation to the court. The court's reluctance to do so arises only from its desire not to prolong this saga any more than necessary. It has already occupied much more in judicial resources than it merits. Future activity by Bast may resurrect the issue, and in such an event, the court reserves the right to revisit it.

Attorney's Fees Costs

A.	For defendants Carter & Kramer, Cohen, Dunn & Sinclair, Convisser, Cox, Curcio, English & Smith, Goldberg, Kramer, Newman, Sinclair, Smith, and Glasberg:		
	Victor M. Glasberg & Associates	$32,992.50	$2,990.46
	Cohen, Dunn & Sinclair	5,510.00	28.98
	Claude Convisser	6,387.00	12.00
	Roger Cox	7,040.00	
	Jody Newman	12,390.00	421.20
	David Smith	7,025.00	300.00
	Charles Kramerl[3]	2,325.00	
B.	Vorys, Sater, Seymour and Pease for defendant Davis	23,275.00	1,132.40
C.	Jordan, Coyne & Savits for defendant Billingham,	$13,288.00	619.09
D.	For defendant Barbara A Reves (damages)	20,000.00	614.39

[3] Kramer has submitted an hourly claim of 150½ hours without a rate. The court has applied a rate of $150.00 per hour.

E. Cohen, Gettings & Dunham for defendants Ames, Larkin, Antonio Pettit and Anthony Pettit 16,174.00 1,290.66

Other than the fee for Glasberg, plaintiffs challenge the attorneys' fees claimed by the other attorneys who are also named as defendants. The submissions reveal that these defendants participated with Glasberg in defense of the action. The reimbursement of the lawyer defendants where they performed the legal work themselves is appropriate. *Bast v. Cohen, Dunn & Sinclair,* No. 94-2525, (4th Cir., July 14, 1995).

The plaintiffs also challenge the award of sanctions to the extent they include items other than attorneys' fees and costs. The court has already awarded a sanction of $100,000.00 against the plaintiff Bast, and this award is not encompassed in this challenge. The only item the court finds subject to the challenge is the $20,000.00 requested by the defendant Reves, who is proceeding pro se. That challenge is sustained and the $20,000.00 claimed by her will not be allowed. The plaintiffs also assert that some of the amounts claimed are for work on the other lawsuit (Bast I). The submissions by the defendants refute this.

Armstrong also argues that he was not afforded the twenty-one days safe-harbor protection of F. R. Civ. P. 11(c)(1)(A). This is simply incorrect. Once given, it need not be repeated by any defendant. Moreover, after a notice of a request for sanctions was given, rather than withdraw the complaints the plaintiffs and their counsel continued to oppose the motions to dismiss.

Armstrong further argues that he should only be held accountable for the limited transgression of signing the complaint and the amended complaint in this action, and that the complaints were no more than a restatement of what was said in Bast I. If they were no more than a restatement of

Bast I, that in itself is damning enough, particularly in persisting with the complaints after issuance of the opinion in Bast I by the Court of Appeals on July 14, 1995. But the complaint and amended complaint in this action are more than just what was alleged in Bast I. The additional defendants in this action consisted of many attorneys, lay persons and judges, all set forth in 165 pages of allegations which the court has found to be without any merit. Armstrong's culpability cannot be minimized. His actions, in some ways, are more dangerous than those of Bast's. He, after all, is an officer of the court. The court expects more of him than a lay plaintiff. His endorsement of the pleadings constitutes the representations recited in F. R. Civ. P. 11(b). He abdicated this responsibililty, and he is at least as culpable as Bast in allowing himself to be used to carry out East's vendetta.

The plaintiffs characterize the fee and costs application as excessive in claiming nearly $150,000.00 to obtain dismissal, on 12(b)(6) grounds, of a frivolous suit. There is an obvious irony in this argument, but the answer to it is that the defendants would have been remiss had they not taken seriously a complaint and amended complaint of this sort. The fees and costs claimed do approach the $150,000.00 figure; however, given a complaint and amended complaint of 131 and 165 pages respectively, which names as defendants numerous lawyers and law firms, lay persons and judges, it is not surprising that fees of at least this amount were incurred.

The court is not persuaded by the representation of their counsel that the corporate plaintiffs are too impecunious to pay the assessments. Neither Bast nor Armstrong proffer any financial inability to pay the $100,000 previously awarded against Bast or the fees and costs contemplated by the defendants' submissions. These amounts are the minimum needed to deter further conduct on the part of Bast, the initiator and pursuer of the vendetta, his attorney and any attorney he may employ in the future.

The court has examined the fees and costs claimed to determine whether they are reasonable. The hourly rates charged, if reasonable, multiplied by the reasonably expended hours, results in a presumptively reasonable fee. *Blum v. Stenson*, 465 U.S. 886, 897 (1984). Some of the hourly rates are full; however, the challenge to these is not persuasive, and for this area they are reasonable. The court rejects the argument that the attorney defendants should not receive their normally hourly billing because this case may not have taken their particular expertise. Nor is there any indication' that the time expended was unreasonable. There is no apparent duplication of effort or proliferation of attorneys on the tasks undertaken. Factors such as novelty or complexity of the case, and the experience and skill of counsel, are normally reflected in the number of hours ex-pended and the hourly rates. Id. at 898. The other factors identified in *Barber v. Kimbrell's. Inc.*, 577 F.2d 216, 226 (4th Cir. 1981), do not indicate that an adjustment need be made in order to reach a reasonable figure.
The costs are reasonable and unchallenged.

The court will not allow the $20,000.00 claimed by Reves. The requests for fees and expenses have been amended, at the direction of the court, to eliminate expenses, including attorney fees, incurred in connection with the motions for sanctions. *Brubaker v. City-of Richmond*, 943 F-2d 1363, 1387 (4th Cir. 1991).

In conclusion, the court awards, against Steven A. Armstrong and the plaintiffs, Inter-World Development Corp., International Investigations, Inc., and Richard L. Bast, jointly and severally, sanctions consisting of costs and attorneys' fees, as follows:

	Attorney's Fees	costs	Total
Victor M. Glasberg & Associates	$20,780.00	$2,407.30	$23,187.30

Cohen, Dunn & Sinclair	5,435.00[1]	28.98	5,463.98
Claude Convisser	6,117.00[2]	12.00	6,129.00
Roger Cox	7,040.00		7,040.00
Jody Neuman	2,390.00	421.20	12,811.20
David Smith	5,200.00[3]	550.00	5,750.00
Charles Kramer	2,325.00		2,325.00
Vorys, Sater, and Pease, Counsel for Davis	17,749.00	1,377.75	19,126.75
Jordan, Coyne & Savits Counsel for Billingham	$7,997.00	$461.16	$ 8,458.16
Barbara A. Reves		614.39	614.39
Cohen, Gettings & Dunham Counsel for Ames, Larkin, Antonio Pettit and Anthony Pettit	12,952.00	1,476.49	14,428.49

The defendant Madonna S. Pettit has filed a motion to dismiss and for sanctions. The motion to dismiss has previously been granted. The motion for sanctions has not been supported by any cost figures - she is not represented

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1 An examination of the claim submitted reveals .50 hours spent on the sanctions motion. The amount claimed has been reduced by $75.00.

2 An examination of the claim submitted reveals 1.8 hours spent, on the sanctions motion. The amount claimed has been reduced by $270.00.

3 The court's examination of the claim submitted reveals 2.5 hours spent on the sanctions motion. The amount claimed has been further reduced by $825.00.

by counsel and no monetary sanctions in her favor will be awarded.

/S/ Albert V. Bryan
United States District Judge

Alexandria, Virginia
December 5th, 1995

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 96-1709

STEPHEN A. ARMSTRONG,

Appellant,

and

INTER-WORLD DEVELOPMENT CORPORATION; INTERNA-TIONAL INVESTIGATIONS, INCORPOR-ATED; RICHARD L. BAST,

Plaintiffs,

versus

JEANNE GOLDBERG; J. FREDERICK SINCLAIR; THOMAS J. CURCIO; ANTONIA LEIGH PETTIT; JACOBOVITZ, ENGLISH & SMITH, P.C.; BARBARA OZELLA REVES; WILLIAM G. BILLINGHAM; PATRICIA GRIEST; JOHN F. DAVIS; MARY AUDREY LARKIN; LOIS AMES; ANTHONY JOSEPH PETTIT,

Defendants-Appellees, and

VICTOR MICHAEL GLASBERG; COHEN, DUNN & SINCLAIR, P.C.; CARTER & KRAMER, P.C.; CHARLES WARREN KRAMER; DAVID SMITH; CLAUDE DAVID CONVISSER; NANCY GERTNER; JODY L. NEWMAN; DELMAR D. HARTLEY; MADDONA LEA SCHAMP PETTIT, removed to Bankruptcy Court for the Eastern District of Virginia; ANNE CONNELL; WILLIAM C. HILLMAN; ROGER A. COX,

Defendants.

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. Albert V. Bryan, Jr., Senior District Judge. (CA-95-531-A)

Submitted: November 6, 1997
Entered: November 18, 1997

Before WIDENER and LUTTIG, Circuit Judges, and BUTZNER, Senior Circuit Judge.

Affirmed in part and dismissed in part by unpublished per curiam opinion.

Stephen A. Armstrong, Appellant Pro Se. Victor Michael Glasberg, VICTOR M. GLASBERG & ASSOCIATES, Alexandria, Virginia; Frank Willard Dunham, Jr., COHEN, GETTINGS, DUNHAM & HARRISON, Arlington, Virginia; Barbara Ozella Reves, Alexandria, Virginia; John Otto Easton, JORDAN, COYNE & SAVITS, Fairfax, Virginia; Patricia Griest, Beavercreek, Ohio; Pamela Anne Bresnahan, Steven Robert Becker, VORYS, SATER, SEYMOUR & PEASE, Washington, D.C., for Appellees.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Appellant seeks to appeal from district court orders entered on: (1) August 4, 1995; (2) October 10, 1995; (3) October 11, 1995; (4) October 25, 1995; (5) November 20, 1995; (6) December 6, 1995; (7) December 20, 1995; and (8)

January 23, 1996. Appellant's notice of appeal was filed on February 6, 1996, which is beyond the sixty-day appeal period established by Fed. R. App. P. 4(a)(1) as to several of the orders. Specifically, Appellant's notice of appeal is untimely as to his appeal from the district court's orders of August 4, October 10, October 11, October 25, November 20, and December 6, 1995, and we dismiss the appeal as to these orders for lack of jurisdiction. The time periods established by Fed. R. App. P. 4 are "mandatory and jurisdictional. 11 Browder v. Director, Dep't of Corrections, 434 U.S. 257, 264 (1978) (quoting United States v. Robinson, 361 U.S. 220, 229 (1960)). Appellant's failure to note a timely appeal as to those orders or obtain an extension of the appeal period under Fed. R. App. P. 4(a)(5) deprives this Court of jurisdiction to consider the appeal as to those orders. We therefore dismiss the appeal as to those orders.

The - only orders as to - which Appellant's notice of appeal is timely are the district court's order entered December 20, 1995, denying Appellant's motion for leave to file a motion pursuant to Fed. R. Civ. P. 59 (e) , and the order entered January 23, 1996, denying Appellant's motion for leave to file supplemental pleadings. We find that the district court did not abuse its discretion in denying either order, and therefore affirm the district court's orders entered December 20, 1995, and January 23, 1996. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the Court and argument would not aid the decisional process.

AFFIRMED IN PART, DISMISSED IN PART

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 96-1223

STEPHEN A. ARMSTRONG,

Appellant,

and

INTER-WORLD DEVELOPMENT CORPORATION: INTERNATIONAL INVESTIGATIONS, INCORPORATED; RICHARD L. EAST,

Plaintiffs,

versus

JEANNE GOLDBERG; J. FREDERICK SINCLAIR; THOMAS J. CURCIO; ANTONIA LEIGH PETTIT; JACOBOVITZ, ENGLISH & SMITH,, P.C.; BARBARA OZELLA REVE S; WILLIAM G. BILLINGRAM; PATRICIA GRIEST ; JOHN F. DAVIS; MARY AUDREY LARKIN; LOIS AMES; ANTHONY JOSEPH PETTIT,

Defendants-Appellees,

AND

VICTOR MICHAEL GLASBERG; COHEN, DUNN & SINCLAIR, P.C.; CARTER & KRAMER, P.C.; CHARLES MARREN KRAMER; DAVID SMITH; CLAUDE DAVID CONVISSER; NANCY GERTNER; JODY L. NEWMAN; DELMAR D. HARTLEY; MADDONA LEA SCHAMP PETTIT, removed to Bankruptcy Court for the Eastern District of Virginia; ANNE CONNELL; WILLIAM C. HILLMAN; ROGER A. COX,

Defendants.

Entered: February 17, 1998

ORDER

On November 18, 1997, we filed our opinion in this case in which we recited that relief was sought from an order entered December 6, 1995, among other orders. Further reference to the record shows that our said opinion should have referred to an order entered December 5, 1995 rather than December 6, 1995.

To that order entered December 5, 1995, Armstrong, on December 19, 1995, filed his motion under Fed. R. Civ. P. 59 (e) to alter or amend the judgment of the said order of the district court entered December 5, 1995.

The district court never acted on the said motion of Armstrong filed December 19, 1995, although the same was timely filed. Through error, we dismissed the appeal in this case from the said order of December 5, 1995, although the said motion of Armstrong filed under Fed. R. Civ. P. 59(e) had never been acted on.

Armstrong has filed his petition for rehearing to our said decision of November 18, 1997, and so far as our opinion denies relief by way of appeal from the said order of December 5, 1995, the petition for rehearing is well taken.

It is accordingly ADJUDGED and ORDERED that so far as our said decision of November 18, 1997 denies relief from the said order of the district court entered December 5, 1995, our decision shall be, and it hereby is, vacated.

It is further ADJUDGED and ORDERED that the case shall be, and it hereby is, remanded to the district court to take further action in the case consistent with this order.

With the concurrences of Judge Luttig and Judge Butzner.

/s/ H. E. Wider, Jr.
H. E. Wider, Jr.
For the Court

EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

INTER-WORLD DEVELOPMENT CORPORATION, et al.,	)
Plaintiffs,	)
v.	)
VICTOR M. GLASBERG, et al.,	)
Defendants.	)

Civil Action No. 95-531-A
Entered: March 24, 1998

ORDER

In accordance with the March 12, 1998, remand of this action by the United States Court of Appeals, the court has reviewed the motion of the plaintiff Stephen A. Armstrong to alter or amend the court's December 5, 1995, order. Also reviewed was the response of the defendants to the plaintiff's motion.

The court's December 5, 1995, order followed hearings on October 6, 1995, and November 17, 1995. The order awarded attorneys' fees and costs. The court noted that neither Armstrong nor the plaintiff Bast proffered any financial inability to pay the fees and costs contemplated by the defendants, submissions.

In plaintiff's motion, he challenges the award of attorney's fees in two ways:

First, he argues that no award should be made for the time of the attorneys who were also party defendants. The court adheres to its previous rejection of the argument.

Second, he argues that fee awards for work performed by attorneys other than Glasberg should be denied because they did not afford him the 21-day safe harbor protection of F.R.Civ.P. 11(c)(1)(A). The notice that was given even, if by only one defendant, gave adequate notice that sanctions were going to be sought for all defendants. No additional notice was required.

The plaintiff argues for the first time[1] that his financial condition is such that an award of the magnitude of the attorneys' fee and costs the court ordered will render him unable to practice law. Even assuming the proffer of this defense is timely, it is unpersuasive. As a sanction, the award is modest. Armstrong received no separate fine as a sanction. The court has found that in many ways Armstrong's activities are the more culpable. It ill behooves impecunious counsel to file a vexatious action such as this one and then, when called on it, to assert that he is sanction proof and ought not therefore to be held responsible for his transgressions. He should have thought of that before he participated to the extent that he did, and persisted in that endeavor, in pursuing this ill fated action. The award, though calculated with reference to the attorney's fees, is necessary as a deterrent, not just to compensate the opposing parties. The court rejects the argument.

Nor is the court willing to grant an evidentiary hearing to explore the relative culpability of the plaintiffs, Armstrong and Bast. The court adheres to its discussion of their relative culpability in its December 5, 1996 Memorandum opinion.

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[1] The court is unpersuaded by the argument that the plaintiff did not interpose this defense before because he could not know in advance what the award would be. This did not stop the parties from arguing that the corporate plaintiff was too impecunious to pay any award, and it would seem prudent, at the very least, to have argued it as a mitigating factor to be considered when the court came to fix the amount of the award.

The court likewise rejects the plaintiff's attack on the reasonableness of the fees. Aside from his objection to the allowance of fees based on comparing one attorney's request with that of another, no particular expenditure of time or effort is challenged as unreasonable or unnecessary.

The motion of the plaintiff Stephen A. Armstrong to alter or amend the court's order of December 5, 1995, is denied.

And it is so ORDERED.

/s/ Albert V. Bryan
Albert V. Bryan, Jr.,
United States District Judge

Alexandria, Virginia
March 24th, 1998

EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

INTER-WORLD DEVELOPMENT)
CORPORATION, et al.,)
)
Plaintiffs,)
)
v.)
)
VICTOR M. GLASBERG, et al.,)
)
Defendants.)

Civil Action No. 95-531-A
Filed: June 9, 1995

MOTION FOR SANCTIONS

Pursuant to Fed.R.Civ.P. 11 (c), defendants Carter & Kramer, P.C., Cohen, Dunn & Sinclair, P.C., Claude D. Convisser, Roger A. Cox, Thomas J. Curcio, English & Smith, P.C., Hon. Nancy Gertner, Victor M. Glasberg, Jeanne Goldberg, Charles W. Kramer, Jody L. Newman, J. Frederick Sinclair and David B. Smith, by counsel, hereby move this court for the imposition of sanctions***]

* * * * * *

/s/ Victor M. Glasberg
Victor M. Glasberg, #16184
Victor M. Glasberg & Associates
121 S. Columbus Street
Alexandria, VA 22314
(703) 684-1100
cs.bst
counsel for movants

EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

INTER-WORLD DEVELOPMENT CORPORATION, et al.,	)
Plaintiffs,	)
v.	)
VICTOR M. GLASBERG, et al.,	)
Defendants.	)

Civil Action NO. 95-531-A
Filed: July 18, 1995

[PROPOSED] MOTION FOR SANCTIONS

Defendants LOIS AMES, MARY A. LARKIN, ANTHONY PETTIT AND ANTONIA L. PETTIT, by counsel and pursuant to Rule 11 (c) of the Federal Rules of Civil Procedure, hereby move this court for the imposition of sanctions on Stephen Andrew Armstrong, Esquire, counsel for Plaintiff, and upon Plaintiffs Richard L. Bast, Inter-World Development Corporation and International Investigations, Inc., for the filing of the Complaint ("Motion for Judgment") and Amended Complaint *

* * * * * * *

COHEN, GETTINGS, DUNHAM & HARRISON, P.C.
2200 Wilson Boulevard, Suite 800
Arlington, Virginia 22201
(703) 525-2260

By: */s/ Frank W. Dunham, jr.,*
FRANK W. DUNHAM, JR., Esq.
Counsel for Lois Ames, Mary A. Larkin, and Antonia L. Pettit

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

INTER-WORLD DEVELOPMENT CORPORATION, et al.,	)
Plaintiffs,	)
v.	)
VICTOR M. GLASBERG, et al.,	)
Defendants.	)

Civil Action No. 95-531-A
Filed: July 28, 1995

MOTION OF PLAINTIFF RICHARD L. BAST TO DISMISS, WITH PREJUDICE, AS TO DEFENDANTS MARY LARKIN, ANTONIA PETTIT, LOIS AMES AND PATRICIA GRIEST

1. Plaintiff Richard L. Bast voluntarily dismisses this action, with prejudice, as to defendants Mary Larkin, Antonia Pettit, Lois Ames and Patricia Griest.

2. A proposed Order is attached.

Respectfully submitted,
Richard L. Bast
By Counsel

Stephen A. Armstrong, p.q. VA Bar 16500
10603 Judicial Drive 703/385-4466
Fairfax, Virginia 22030-5165

28
July ~~27~~, 1995
/saa/

United States District Court for the Eastern District of Virginia, Alexandria Division Docketing Statement Extract

"7/31/95 57 ORDER granting [54-1] motion by Richard Bast, Internat'l investigation, Inter-World Development to Dismiss, with prejudice, as to defts Griest, Larkin, Pettit, Ames with prejudice - ent. & filed (signed by Judge Albert V. Bryan, Jr.) Copies Mailed: yes (1har) [Entry date 08/01/95]"

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

INTER-WORLD DEVELOPMENT CORPORATION, et al., Plaintiffs,	)
v.	)
VICTOR M. GLASBERG, et al., Defendants.	)

Civil Action No. 95-531-A
Filed: July 18, 1995

NOTICE OF PLAINTIFFS INTERNATIONAL INVESTIGATIONS, INC. AND INTER-WORLD EVELOPMENT CORPORATION'S VOLUNTARY DISMISSAL OF THIS ACTION AS TO DEFENDANTS PATRICIA GRIEST, MARY LARKIN, ANTONIA PETTIT AND LOIS AMES

As defendants Patricia Griest, Mary Larkin, Antonia Pettit and Lois Ames have neither served an Answer nor motion for summary judgment, pursuant to Rule 41 (a) (1) (1) of the Federal Rules of civil Procedure, the above captioned Plaintiffs voluntarily dismiss this action against these defendants.

Respectfully submitted,
The Captioned Plaintiffs,
By Counsel

Stephen A. Armstrong, p.q. VA Bar 16500
10603 Judicial Drive 703/385-4466
Fairfax, Virginia 22030-5165
July 27, 1995
28 /saa/

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

INTER-WORLD DEVELOPMENT CORPORATION, et al.,
Plaintiffs,

v.

VICTOR M. GLASBERG, et al.,
Defendants.

Civil Action No. 95-531-A
Filed: August 10, 1995

MOTION FOR SANCTIONS OF DEFENDANT WILLIAM G. BILLINGHAM

Defendant William G. Billingham, by counsel, pursuant to Fed.R.Civ.P. 11 moves for sanctions * * * *

WHEREFORE the defendant, William G. Billingham, respectfully requests that his motion for sanctions be granted, * * *

WILLIAM G. BILLINGHAM
By Counsel
JORDAN COYNE & SAVITS
10486 Armstrong Street
Fairfax, Virginia 22030
(703) 246-0900

By /s/John O. Easton
John O. Easton, VSB #17302
John H. Carstens, VSB# 22826
Counsel for Defendant Billingham

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

INTER-WORLD DEVELOPMENT CORPORATION, et al.,	)
Plaintiffs,	)
v.	)
VICTOR M. GLASBERG, et al.,	)
Defendants.	)

Civil Action No. 95-531-A
Filed: August 15, 1995

MOTION FOR SANCTIONS

Defendant ANTHONY J. PETTIT, by counsel and pursuant to Rule 11(c) of the Federal Rules of Civil Procedure, hereby moves this court for the imposition of sanctions on Stephen Andrew Armstrong, Esquire, counsel for Plaintiff, and upon Plaintiffs Richard L. Bast, Inter-World Development Corporation and International Investigations, Inc., * * * * * *

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1 This motion was served on plaintiffs' counsel on July 18, 1995. (A copy of counsel's letter is attached hereto as Exhibit A). At the time it was prepared, undersigned counsel was seeking dismissal of its case as to four defendants and this motion proposed sanctions as to all four. **Plaintiffs subsequently dismissed as to three defendants** and this motion has been modified accordingly. [emphasis added]

DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

INTER-WORLD DEVELOPMENT CORPORATION, et al.,	)
Plaintiffs,	)
v.	)
VICTOR M. GLASBERG, et al.,	)
Defendants.	)

Civil Action No. 95-531-A
Filed: August 18, 1995

DEFENDANT JOHN F. DAVIS' MOTION
FOR SANCTIONS AGAINST PLAINTIFFS

Defendant, John F. Davis, by his undersigned counsel and pursuant to Fed. R. Civ. P. 11, moves this Court to enter sanctions against Plaintiffs and their attorneys

* * * *

1. Defendant joins in the Motion for Sanctions filed by Anthony J. Pettit and the Motion for Sanctions filed by Defendants Carter & Kramer, P.C., Cohen, Dunn & Sinclair, P.C., Claude D. Convisser, Roger A. Cox, Thomas J. Curcio, English & Smith, P.C., Hon. Nancy Gertner, Victor M. Glasberg, Jeanne Goldberg, Charles W. Kramer, Jody L. Newman, J. Frederick Sinclair and David B. Smith. The grounds set forth in those motions for sanctions are equally applicable to Defendant John F. Davis ("Mr. Davis").

* * * * *

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

INTER-WORLD DEVELOPMENT CORPORATION, et al.,	)
Plaintiffs,	)
v.	)
VICTOR M. GLASBERG, et al.,	)
Defendants.	)

Civil Action No. 95-531-A
Filed: September 14, 1995

MOTION AND MEMORANDUM OF DEFENDANTS LOIS AMES, MARY AUDRY LARKIN, AND ANTONIA PETTIT FOR SANCTIONS AGAINST PLAINTIFFS INTERWORLD DEVELOPMENT CORPORATION, AND INTERNATIONAL INVESTIGATIONS AND PLAINTIFF'S COUNSEL

* * * * * * *

COHEN, GETTINGS, DUNHAM & HARRISON, P.C.
2200 Wilson Boulevard, Suite 800
Arlington, Virginia 22201
(703) 525-2260

By: */s/ Frank W. Dunham, jr.*
FRANK W. DUNHAM, JR., Esq.
Counsel for Lois Ames, Mary A. Larkin,
and Antonia L. Pettit

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

INTER-WORLD DEVELOPMENT CORPORATION, et al.,	)
Plaintiffs,	)
v.	)
VICTOR M. GLASBERG, et al.,	)
Defendants.	)

Civil Action No. 95-531-A
Filed: July 13, 1995

MOTION FOR RULE 11 SANCTIONS*

Defendant Barbara Reves moves this court for sanctions under Rule 11 of the Federal Rules of Civil Procedure against International Investigations, Inc. * [addresses omitted] * Inter-World Development * Richard L. Bast * and their counsel Stephen Andrew Armstrong *

Certificate of Service

I hereby certify that a true and accurate of the foregoing was mailed to:

Stephen Andrew Armstrong
* [address omitted]

* [The original motion for sanctions was handwritten. Ms. Reves signed the motion, but the certificate of service was neither signed, nor dated.]